

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1042
96TH GENERAL ASSEMBLY

Reported from the Committee on Education, April 19, 2012, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4431S.04C

AN ACT

To repeal sections 173.005, 173.040, 173.606, 173.608, 173.612, 173.614, 173.616, and 173.618, RSMo, and to enact in lieu thereof eight new sections relating to duties prescribed to the coordinating board for higher education, with a penalty provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 173.005, 173.040, 173.606, 173.608, 173.612, 173.614, 173.616, and 173.618, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 173.005, 173.040, 173.606, 173.608, 173.612, 173.614, 173.616, and 173.618, to read as follows:

173.005. 1. There is hereby created a "Department of Higher Education", and the division of higher education of the department of education is abolished and all its powers, duties, functions, personnel and property are transferred as provided by the Reorganization Act of 1974, Appendix B, RSMo.

2. The commission on higher education is abolished and all its powers, duties, personnel and property are transferred by type I transfer to the "Coordinating Board for Higher Education", which is hereby created, and the coordinating board shall be the head of the department. The coordinating board shall consist of nine members appointed by the governor with the advice and consent of the senate, and not more than five of its members shall be of the same political party. None of the members shall be engaged professionally as an educator or educational administrator with a public or private institution of higher education at the time appointed or during his term. Moreover, no person shall be appointed to the coordinating board who shall not be a citizen of the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 United States, and who shall not have been a resident of the state of Missouri two
16 years next prior to appointment, and at least one but not more than two persons
17 shall be appointed to said board from each congressional district. The term of
18 service of a member of the coordinating board shall be six years and said
19 members, while attending the meetings of the board, shall be reimbursed for their
20 actual expenses. Notwithstanding any provision of law to the contrary, nothing
21 in this section relating to a change in the composition and configuration of
22 congressional districts in this state shall prohibit a member who is serving a term
23 on August 28, 2011, from completing his or her term. The coordinating board
24 may, in order to carry out the duties prescribed for it in subsections 1, 2, 3, 7, and
25 8 of this section, employ such professional, clerical and research personnel as may
26 be necessary to assist it in performing those duties, but this staff shall not, in any
27 fiscal year, exceed twenty-five full-time equivalent employees regardless of the
28 source of funding. In addition to all other powers, duties and functions
29 transferred to it, the coordinating board for higher education shall have the
30 following duties and responsibilities:

31 (1) The coordinating board for higher education shall have approval of
32 proposed new degree programs to be offered by the state institutions of higher
33 education;

34 (2) The coordinating board for higher education may promote and
35 encourage the development of cooperative agreements between Missouri public
36 four-year institutions of higher education which do not offer graduate degrees and
37 Missouri public four-year institutions of higher education which do offer graduate
38 degrees for the purpose of offering graduate degree programs on campuses of
39 those public four-year institutions of higher education which do not otherwise
40 offer graduate degrees. Such agreements shall identify the obligations and duties
41 of the parties, including assignment of administrative responsibility. Any
42 diploma awarded for graduate degrees under such a cooperative agreement shall
43 include the names of both institutions inscribed thereon. Any cooperative
44 agreement in place as of August 28, 2003, shall require no further approval from
45 the coordinating board for higher education. Any costs incurred with respect to
46 the administrative provisions of this subdivision may be paid from state funds
47 allocated to the institution assigned the administrative authority for the
48 program. The provisions of this subdivision shall not be construed to invalidate
49 the provisions of subdivision (1) of this subsection;

50 (3) In consultation with the heads of the institutions of higher education

51 affected and against a background of carefully collected data on enrollment,
52 physical facilities, manpower needs, institutional missions, the coordinating board
53 for higher education shall establish guidelines for appropriation requests by those
54 institutions of higher education; however, other provisions of the Reorganization
55 Act of 1974 notwithstanding, all funds shall be appropriated by the general
56 assembly to the governing board of each public four-year institution of higher
57 education which shall prepare expenditure budgets for the institution;

58 (4) No new state-supported senior colleges or residence centers shall be
59 established except as provided by law and with approval of the coordinating board
60 for higher education;

61 (5) The coordinating board for higher education shall establish admission
62 guidelines consistent with institutional missions;

63 (6) **The coordinating board for higher education shall require all**
64 **public two-year and four-year higher education institutions to replicate**
65 **best practices in remediation identified by the coordinating board and**
66 **institutions from research undertaken by regional educational**
67 **laboratories, higher education research organizations, and similar**
68 **organizations with expertise in the subject, and identify and reduce**
69 **methods that have been found to be ineffective in preparing or**
70 **retaining students or that delay students from enrollment in**
71 **college-level courses;**

72 (7) The coordinating board shall establish policies and procedures for
73 institutional decisions relating to the residence status of students;

74 [(7)] (8) The coordinating board shall establish guidelines to promote and
75 facilitate the transfer of students between institutions of higher education within
76 the state and [shall ensure that as of the 2008-09 academic year, in order to
77 receive increases in state appropriations, all approved public two- and four-year
78 public institutions shall work with the commissioner of higher education to
79 establish agreed-upon competencies for all entry-level collegiate courses in
80 English, mathematics, foreign language, sciences, and social sciences associated
81 with an institution's general education core and that], **with the assistance of**
82 **the committee on transfer and articulation, shall require all public**
83 **two-year and four-year higher education institutions to create by July**
84 **1, 2014, a statewide core transfer library of at least twenty-five lower**
85 **division courses across all institutions that are transferable among all**
86 **public higher education institutions.** The coordinating board shall establish

87 policies and procedures to ensure such courses are accepted in transfer among
88 public institutions and treated as equivalent to similar courses at the receiving
89 institutions. **The coordinating board shall develop a policy to foster**
90 **reverse transfer for any student who has accumulated enough hours in**
91 **combination with at least one public higher education institution in**
92 **Missouri that offers an associate degree and one public four-year**
93 **higher education institution in the prescribed courses sufficient to**
94 **meet the public higher education institution's requirements to be**
95 **awarded an associate degree.** The department of elementary and secondary
96 education shall [align such competencies with] **maintain the alignment of** the
97 assessments found in section 160.518 and successor assessments **with the**
98 **competencies previously established under this subdivision for entry-**
99 **level collegiate courses in English, mathematics, foreign language,**
100 **sciences, and social sciences associated with an institution's general**
101 **education core;**

102 **[(8)] (9)** The coordinating board shall collect the necessary information
103 and develop comparable data for all institutions of higher education in the
104 state. The coordinating board shall use this information to delineate the areas
105 of competence of each of these institutions and for any other purposes deemed
106 appropriate by the coordinating board;

107 **[(9)] (10)** Compliance with requests from the coordinating board for
108 institutional information and the other powers, duties and responsibilities, herein
109 assigned to the coordinating board, shall be a prerequisite to the receipt of any
110 funds which the coordinating board is responsible for administering;

111 **[(10)] (11)** If any institution of higher education in this state, public or
112 private, willfully fails or refuses to follow any lawful guideline, policy or
113 procedure established or prescribed by the coordinating board, or knowingly
114 deviates from any such guideline, or knowingly acts without coordinating board
115 approval where such approval is required, or willfully fails to comply with any
116 other lawful order of the coordinating board, the coordinating board may, after
117 a public hearing, withhold or direct to be withheld from that institution any funds
118 the disbursement of which is subject to the control of the coordinating board, or
119 may remove the approval of the institution as an approved institution within the
120 meaning of section 173.1102. If any such public institution willfully disregards
121 board policy, the commissioner of higher education may order such institution to
122 remit a fine in an amount not to exceed one percent of the institution's current

123 fiscal year state operating appropriation to the board. The board shall hold such
124 funds until such time that the institution, as determined by the commissioner of
125 higher education, corrects the violation, at which time the board shall refund such
126 amount to the institution. If the commissioner determines that the institution
127 has not redressed the violation within one year, the fine amount shall be
128 deposited into the general revenue fund, unless the institution appeals such
129 decision to the full coordinating board, which shall have the authority to make
130 a binding and final decision, by means of a majority vote, regarding the
131 matter. However, nothing in this section shall prevent any institution of higher
132 education in this state from presenting additional budget requests or from
133 explaining or further clarifying its budget requests to the governor or the general
134 assembly; and

135 ~~[(11)]~~ **(12)** (a) As used in this subdivision, the term "out-of-state public
136 institution of higher education" shall mean an education institution located
137 outside of Missouri that:

138 a. Is controlled or administered directly by a public agency or political
139 subdivision or is classified as a public institution by the state;

140 b. Receives appropriations for operating expenses directly or indirectly
141 from a state other than Missouri;

142 c. Provides a postsecondary course of instruction at least six months in
143 length leading to or directly creditable toward a degree or certificate;

144 d. Meets the standards for accreditation by an accrediting body recognized
145 by the United States Department of Education or any successor agency; and

146 e. Permits faculty members to select textbooks without influence or
147 pressure by any religious or sectarian source.

148 (b) No later than July 1, 2008, the coordinating board shall promulgate
149 rules regarding:

150 a. The board's approval process of proposed new degree programs and
151 course offerings by any out-of-state public institution of higher education seeking
152 to offer degree programs or course work within the state of Missouri; and

153 b. The board's approval process of degree programs and courses offered
154 by any out-of-state public institutions of higher education that, prior to July 1,
155 2008, were approved by the board to operate a school in compliance with the
156 provisions of sections 173.600 to 173.618. The rules shall ensure that, as of July
157 1, 2008, all out-of-state public institutions seeking to offer degrees and courses
158 within the state of Missouri are evaluated in a manner similar to Missouri public

159 higher education institutions. Such out-of-state public institutions shall be held
160 to standards no lower than the standards established by the coordinating board
161 for program approval and the policy guidelines of the coordinating board for data
162 collection, cooperation, and resolution of disputes between Missouri institutions
163 of higher education under this section. Any such out-of-state public institutions
164 of higher education wishing to continue operating within this state must be
165 approved by the board under the rules promulgated under this subdivision. **The**
166 **coordinating board may charge and collect fees from out-of-state public**
167 **institutions to cover the costs of reviewing and assuring the quality of**
168 **programs offered by out-of-state public institutions.** Any rule or portion
169 of a rule, as that term is defined in section 536.010, that is created under the
170 authority delegated in this section shall become effective only if it complies with
171 and is subject to all of the provisions of chapter 536 and, if applicable, section
172 536.028. This section and chapter 536 are nonseverable and if any of the powers
173 vested with the general assembly under chapter 536 to review, to delay the
174 effective date, or to disapprove and annul a rule are subsequently held
175 unconstitutional, then the grant of rulemaking authority and any rule proposed
176 or adopted after August 28, 2007, shall be invalid and void.

177 (c) Nothing in this subdivision or in section 173.616 shall be construed or
178 interpreted so that students attending an out-of-state public institution are
179 considered to be attending a Missouri public institution of higher education for
180 purposes of obtaining student financial assistance.

181 3. The coordinating board shall meet at least four times annually with an
182 advisory committee who shall be notified in advance of such meetings. The
183 coordinating board shall have exclusive voting privileges. The advisory
184 committee shall consist of thirty-two members, who shall be the president or
185 other chief administrative officer of the University of Missouri; the chancellor of
186 each campus of the University of Missouri; the president of each state-supported
187 four-year college or university, including Harris-Stowe State University, Missouri
188 Southern State University, Missouri Western State University, and Lincoln
189 University; the president of Linn State Technical College; the president or
190 chancellor of each public community college district; and representatives of each
191 of five accredited private institutions selected biennially, under the supervision
192 of the coordinating board, by the presidents of all of the state's privately
193 supported institutions; but always to include at least one representative from one
194 privately supported community college, one privately supported four-year college,

195 and one privately supported university. The conferences shall enable the
196 committee to advise the coordinating board of the views of the institutions on
197 matters within the purview of the coordinating board.

198 4. The University of Missouri, Lincoln University, and all other
199 state-governed colleges and universities, chapters 172, 174, 175, and others, are
200 transferred by type III transfers to the department of higher education subject to
201 the provisions of subsection 2 of this section.

202 5. The state historical society, chapter 183, is transferred by type III
203 transfer to the University of Missouri.

204 6. The state anatomical board, chapter 194, is transferred by type II
205 transfer to the department of higher education.

206 7. All the powers, duties and functions vested in the division of public
207 schools and state board of education relating to community college state aid and
208 the supervision, formation of districts and all matters otherwise related to the
209 state's relations with community college districts and matters pertaining to
210 community colleges in public school districts, chapters 163, 178, and others, are
211 transferred to the coordinating board for higher education by type I
212 transfer. Provided, however, that all responsibility for administering the
213 federal-state programs of vocational-technical education, except for the 1202a
214 postsecondary educational amendments of 1972 program, shall remain with the
215 department of elementary and secondary education. The department of
216 elementary and secondary education and the coordinating board for higher
217 education shall cooperate in developing the various plans for vocational-technical
218 education; however, the ultimate responsibility will remain with the state board
219 of education.

220 8. All the powers, duties, functions, and properties of the state poultry
221 experiment station, chapter 262, are transferred by type I transfer to the
222 University of Missouri, and the state poultry association and state poultry board
223 are abolished. In the event the University of Missouri shall cease to use the real
224 estate of the poultry experiment station for the purposes of research or shall
225 declare the same surplus, all real estate shall revert to the governor of the state
226 of Missouri and shall not be disposed of without legislative approval.

173.040. The coordinating board is directed to submit a written report to
2 the governor or governor-elect at least forty-five days prior to the opening of each
3 regular session of the general assembly and to submit the same report to the
4 general assembly within five days after the opening of each regular session. The

5 report shall include:

6 (1) A statement of the initial coordinated plan for higher education in
7 Missouri, together with subsequent changes and implementations;

8 (2) A review of recent changes in enrollments and programs among
9 institutions of higher education in the state;

10 (3) A review of requests and recommendations made by the coordinating
11 board to institutions of higher education in accordance with section 173.030 and
12 of the college's or university's response to requests and recommendations,
13 including noncompliance therewith;

14 (4) The coordinating board's recommendations for development and
15 coordination in state-supported higher education in the forthcoming biennium,
16 within the context of the long-range coordinated plan;

17 (5) The coordinating board's budget recommendations for each
18 state-supported college or university for the forthcoming biennium; **and**

19 **(6) The campus-level data on student persistence and a**
20 **description, including the basis of measurement, of progress towards**
21 **implementing revised remediation, transfer, and retention practices**
22 **under subdivisions (6) and (8) of subsection 2 of section 173.005.**

173.606. 1. Annually, each proprietary school desiring to operate in this
2 state shall make written application to the board on forms furnished by the
3 board. Such application shall include the identification of all locations operated
4 by a proprietary school and shall identify a single location as a principal facility
5 for the purpose of record keeping and administration. Any location at which
6 education is offered by a franchisee of a franchisor approved to operate as a
7 proprietary school shall be deemed a location within the scope of such franchisor's
8 approval if such franchisor establishes the course curriculum and guidelines for
9 teaching at such location.

10 2. The department of higher education shall review the application and
11 may conduct an investigation of the applicant to ensure compliance with the rules
12 and regulations. **A proprietary school in continuous operation for a**
13 **period of no less than five years shall be eligible to apply for**
14 **certification that is valid for two years.**

15 3. A certificate of approval is nontransferable. A change in the sole
16 proprietor of a school, a change in the majority interest of general partners of a
17 partnership owning a school, or a change in majority of stock ownership of a
18 school shall for the purpose of sections 173.600 to 173.618 be deemed a transfer

19 of ownership. Within thirty days of a transfer of ownership the new owner shall
20 make written application to the board for a new certificate of approval. This
21 application shall be processed like an initial application, except that the board
22 may issue a temporary certificate of approval if the chief administrator of the
23 school furnishes a written statement asserting that all of the conditions set forth
24 in the rules and regulations are being met or will be met before offering training
25 or education. A temporary certificate shall be effective for a maximum of sixty
26 days.

27 4. Any school denied exemption or a certificate of approval and any
28 approved school whose certificate is revoked or suspended may appeal to the
29 administrative hearing commission.

173.608. 1. The **base** annual fee for a proprietary school certificate of
2 approval shall be ~~[\$.001]~~ **\$.0013** per one dollar of net tuition and fees income
3 (excluding refunds, books, tools and supplies), with a maximum of [two thousand
4 five hundred] **five thousand** dollars and a minimum of [two hundred fifty] **five**
5 **hundred** dollars per school. For a school having a certificate of approval for the
6 sole purpose of recruiting students in Missouri, the net tuition used for this
7 computation shall be only that paid to the school by students recruited from
8 Missouri and the fee shall be [two hundred fifty] **five hundred** dollars plus the
9 amount produced by the foundation calculation, **with a maximum of five**
10 **thousand dollars. Every five years, beginning with fiscal year 2013, the**
11 **coordinating board may increase the base annual fee as well as the**
12 **related minimum and maximum amounts by administrative rule no**
13 **more than the Consumer Price Index for All Urban Consumers (CPI-U),**
14 **1982-1984=100, not seasonally adjusted, as defined and officially**
15 **recorded by the United States Department of Labor, or its successor**
16 **agency, for the period since the last fee increase.**

17 2. In addition to the annual fee for a certificate of approval, the
18 coordinating board may establish by administrative rule additional
19 appropriate fees if necessary to generate funding sufficient to cover the
20 entirety of costs associated with the operation of the proprietary school
21 certification program, with advice of the proprietary school advisory
22 committee.

23 [2.] 3. Any school which operates at two or more locations, or has
24 franchised schools as provided in section 173.606, may combine tuition and fees
25 for all locations for the purpose of determining the annual fee payable under

26 sections 173.600 to 173.618. [All fees received shall be deposited in the state
27 treasury to the credit of general revenue.]

28 **4. All revenue received by the coordinating board from the fees**
29 **authorized in this section shall be deposited in the state treasury to the**
30 **credit of the "Proprietary School Certification Fund" which is hereby**
31 **created for the sole purpose of funding the costs associated with the**
32 **operation of the proprietary school program. Notwithstanding the**
33 **provisions of section 33.080 to the contrary, any moneys remaining in**
34 **the fund at the end of the biennium shall not revert to the credit of the**
35 **general revenue fund.**

173.612. 1. The board shall, through the department of higher education,
2 administer, supervise, and enforce the provisions and policies of sections 173.600
3 to 173.618 and shall assign the personnel that are necessary to exercise its
4 powers and duties.

5 2. The rules and regulations adopted by the board under sections 173.600
6 to 173.618, together with any amendments thereto, shall be filed with the office
7 of the secretary of state. The board may:

8 (1) Issue proprietary school certificates of approval or temporary
9 certificates of approval to applicants meeting the requirements of sections 173.600
10 to 173.618;

11 (2) Suspend or revoke certificates or temporary certificates of approval,
12 or place certified schools on probation;

13 (3) Require each proprietary school to file a security bond covering the
14 school and its agents to indemnify any student, enrollee or parent, guardian, or
15 sponsor of a student or enrollee who suffers loss or damage because of a violation
16 of sections 173.600 to 173.618 by the school, or because a student is unable to
17 complete the course due to the school's ceasing operation or because a student
18 does not receive a refund to which he is entitled. The bond or other security shall
19 cover all the facilities and locations of a proprietary school and shall not be less
20 than five thousand dollars or ten percent of the preceding year's gross tuition,
21 whichever is greater, but in no case shall it exceed [twenty-five] **one hundred**
22 **thousand dollars.** The bond shall clearly state that the school and the agents of
23 the school are covered by it. The board may authorize the use of certificates of
24 deposit, letters of credit, or other assets to be posted as security in lieu of this
25 surety bond requirement;

26 (4) Collect **only that** data from certified proprietary schools [appropriate

27 to establish records and statistics necessary to provide evaluation and planning
28 by the department of higher education] **necessary to administer, supervise,**
29 **and enforce the provisions of sections 173.600 to 173.619. The**
30 **department shall, subject to appropriations, provide a system to**
31 **electronically submit all data;**

32 (5) **Review proposals for new programs within ninety days from**
33 **the date that a certified school submits a new program for review, and**
34 **review proposals for revised programs within sixty days from the date**
35 **that a certified school submits a revised program for review. If the**
36 **department fails to review a proposal for a new or revised program**
37 **within the prescribed time frame, the school shall be permitted to offer**
38 **the program until the department completes its review and identifies**
39 **a substantive issue or issues that need correction. In such case the**
40 **department shall notify the school within an additional ninety days and**
41 **the school shall then have ninety days from the date it is informed that**
42 **a program offering has a deficiency to correct the deficiency without**
43 **having to cease offering the program;**

44 (6) Administer sections 173.600 to 173.618 and initiate action to enforce
45 it.

46 3. Any school which closes or whose certificate of approval is suspended,
47 revoked, or not renewed shall, on the approval of the coordinating board, make
48 partial or full refund of tuition and fees to the students enrolled, continue
49 operation under a temporary certificate until students enrolled have completed
50 the program for which they were enrolled, make arrangements for another school
51 or schools to complete the instruction for which the students are enrolled, employ
52 a combination of these methods in order to fulfill its obligations to the students,
53 or implement other plans approved by the coordinating board.

54 4. Any rule or portion of a rule promulgated pursuant to sections 173.600
55 to 173.618 may be suspended by the joint house-senate committee on
56 administrative rules until such time as the general assembly may by concurrent
57 resolution signed by the governor reinstate such rule.

173.614. 1. The "Proprietary School Advisory Committee" is hereby
2 created consisting of seven members. All members shall be appointed by the
3 [board] **commissioner of higher education** and shall be [either individual
4 proprietors, general partners of partnerships,] **owners** or managerial employees
5 of proprietary schools. The initial appointment of members to the committee
6 shall be made within sixty days after September 28, 1983, and shall consist of two

7 members appointed for terms expiring one year from September 28, 1983, two
8 members appointed for terms expiring two years from September 28, 1983, and
9 three members appointed for terms expiring three years from September 28,
10 1983. The terms of members initially appointed shall be designated by the
11 board. Thereafter, each appointment shall be for a term of three years. If a
12 committee member resigns or for any reason is unable or ineligible to continue
13 to serve, a new member shall be appointed by the board to fill the unexpired
14 term. **At all times at least three members of the committee shall**
15 **represent schools that confer a degree and at least one of the three**
16 **shall represent a school that confers a degree at the baccalaureate level**
17 **or higher.**

18 2. The committee shall organize itself by the election of a chairman and
19 other officers as needed.

20 3. The committee shall report to the board at least twice annually and
21 advise the board on matters within the scope of sections 173.600 to 173.618.

22 4. The proprietary school advisory committee shall have the following
23 responsibilities:

24 (1) To advise the board in the administration of sections 173.600 to
25 173.618;

26 (2) To make recommendations with respect to the rules and regulations
27 establishing minimum standards which are to be adopted by the board; and

28 (3) To advise the board with respect to grievances and complaints.

29 5. Members of the committee shall serve without compensation but may
30 be reimbursed for traveling and other expenses necessarily incurred in the
31 performance of their duties from funds of the department of higher education.

173.616. 1. The following schools, training programs, and courses of
2 instruction shall be exempt from the provisions of sections 173.600 to 173.618:

3 (1) A public institution;

4 (2) Any college or university represented directly or indirectly on the
5 advisory committee of the coordinating board for higher education as provided in
6 subsection 3 of section 173.005;

7 (3) An institution that is certified by the board as an "approved private
8 institution" under subdivision (2) of section [173.205] **173.1102**;

9 (4) A not-for-profit religious school that is accredited by the American
10 Association of Bible Colleges, the Association of Theological Schools in the United
11 States and Canada, or a regional accrediting association, such as the North

12 Central Association, which is recognized by the Council on Postsecondary
13 Accreditation and the United States Department of Education; and

14 (5) Beginning July 1, 2008, all out-of-state public institutions of higher
15 education, as such term is defined in subdivision [(11)] (12) of subsection 2 of
16 section 173.005.

17 2. The coordinating board shall exempt the following schools, training
18 programs and courses of instruction from the provisions of sections 173.600 to
19 173.618:

20 (1) A not-for-profit school owned, controlled and operated by a bona fide
21 religious or denominational organization which offers no programs or degrees and
22 grants no degrees or certificates other than those specifically designated as
23 theological, bible, divinity or other religious designation;

24 (2) A not-for-profit school owned, controlled and operated by a bona fide
25 eleemosynary organization which provides instruction with no financial charge
26 to its students and at which no part of the instructional cost is defrayed by or
27 through programs of governmental student financial aid, including grants and
28 loans, provided directly to or for individual students;

29 (3) A school which offers instruction only in subject areas which are
30 primarily for avocational or recreational purposes as distinct from courses to
31 teach employable, marketable knowledge or skills, which does not advertise
32 occupational objectives and which does not grant degrees;

33 (4) A course of instruction, study or training program sponsored by an
34 employer for the training and preparation of its own employees;

35 (5) A course of study or instruction conducted by a trade, business or
36 professional organization with a closed membership where participation in the
37 course is limited to bona fide members of the trade, business or professional
38 organization, or a course of instruction for persons in preparation for an
39 examination given by a state board or commission where the state board or
40 commission approves that course and school;

41 (6) A school or person whose clientele are primarily students aged sixteen
42 or under.

43 3. A school which is otherwise licensed and approved under and pursuant
44 to any other licensing law of this state shall be exempt from sections 173.600 to
45 173.618, but a state certificate of incorporation shall not constitute licensing for
46 the purpose of sections 173.600 to 173.618.

47 4. Any school, training program or course of instruction exempted herein

48 may elect by majority action of its governing body or by action of its director to
49 apply for approval of the school, training program or course of instruction under
50 the provisions of sections 173.600 to 173.618. Upon application to and approval
51 by the coordinating board, such school training program or course of instruction
52 may become exempt from the provisions of sections 173.600 to 173.618 at any
53 subsequent time, except the board shall not approve an application for exemption
54 if the approved school is then in any status of noncompliance with certification
55 standards and a reversion to exempt status shall not relieve the school of any
56 liability for indemnification or any penalty for noncompliance with certification
57 standards during the period of the school's approved status.

173.618. 1. Any act, method, or practice which violates the provisions of
2 sections 173.600 to 173.618 shall be an unlawful practice within the meaning of
3 section 407.020, and **any action authorized in section 407.020 may be**
4 **taken. In addition,** the board may seek an injunction in the manner provided
5 in chapter 407. The board may exercise the authority granted in subdivision (2)
6 of subsection 2 of section 173.612 without seeking injunction.

7 2. Any person convicted of operating a proprietary school without
8 certificate of approval or a temporary certificate of approval, or of failure to file
9 bond or security as required by sections 173.600 to 173.618 or of violating any
10 other provision of sections 173.600 to 173.618 is guilty of a class A misdemeanor
11 and upon conviction shall be punished in the manner provided by law.

✓